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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/637,138	08/11/2000	Brian Povolny	2101329-991100	7183

26379 7590 12/23/2002

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EXAMINER

CHANCE, JANET D

ART UNIT PAPER NUMBER

3626

DATE MAILED: 12/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/637,138

Applicant(s)

POVOLNY ET AL.

Examiner

Janet D. Chance

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2000.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 August 2000 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Recent Statutory Changes to 35 U.S.C. § 102(e)

On November 2, 2002, President Bush signed the 21st Century Department of Justice Appropriations Authorization Act (H.R. 2215) (Pub. L. 107-273, 116 Stat. 1758 (2002)), which further amended 35 U.S.C. § 102(e), as revised by the American Inventors Protection Act of 1999 (AIPA) (Pub. L. 106-113, 113 Stat. 1501 (1999)). The revised provisions in 35 U.S.C. § 102(e) are completely retroactive and effective immediately for all applications being examined or patents being reexamined. Until all of the Office's automated systems are updated to reflect the revised statute, citation to the revised statute in Office actions is provided by this attachment. This attachment also substitutes for any citation of the text of 35 U.S.C. § 102(e), if made, in the attached Office action.

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 in view of the AIPA and H.R. 2215 that forms the basis for the rejections under this section made in the attached Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

35 U.S.C. § 102(e), as revised by the AIPA and H.R. 2215, applies to all qualifying references, except when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. For such patents, the prior art date is determined under 35 U.S.C. § 102(e) as it existed prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. § 102(e)).

The following is a quotation of the appropriate paragraph of 35 U.S.C. § 102 prior to the amendment by the AIPA that forms the basis for the rejections under this section made in the attached Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

For more information on revised 35 U.S.C. § 102(e) visit the USPTO website at www.uspto.gov or call the Office of Patent Legal Administration at (703) 305-1622.

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DETAILED ACTION

Notice to Applicant

1. This communication is in response to the application filed 11 August 2000. Claims 1-34 are pending.

Drawings

2. The drawings are objected to because the margins do not comply with 37 CFR 1.84 standards for drawings (see MPEP 608.02) and as a result more than one reference number has been rendered illegible due to hole punching. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 8, 12, 18-23, 25, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Evans (5,924,074).

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(A) As per claim 1, Evans teaches a method of collecting and presenting the patient data to a requestor comprising:

- a) querying at lest one database for patient and provider specific data (Evans; Figure 5, col. 6, lines 37-47, col. 6, lines 4-9);
- b) determining the access status of the requestor (Evans; col. 15, lines 15-35);
- c) selecting records that satisfy the query and are visible to the recipient (Evans; Figure 5, col. 6, lines 37-47 and col. 15, lines 15-35); and
- d) presenting data from one or more data fields in accordance with one or more objects or templates to the recipient (Evans; col. 6, lines 47-55).

(B) As per claims 2-3, Evans teaches the requestor requesting and a recipient receiving patient data via a browser through a web server (Evans; col. 12, line 55 to col. 13, line 30, and Figure 24).

(C) As per claim 4, Evans teaches presenting the data fields in a form of a clinical record, treatment record, diagnosis, treatment plan, appointment, referral or prescription (Evans; Figures 3,5,19-21).

(D) As per claim 5-6, Evans teaches presenting the data to the recipient in hard copy and electronically (Evans; col. 6, lines 37-47, col. 13, lines 5-10 and Figure 24, element 422).

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(E) As per claim 8, Evan teaches the determination of the access status of the requestor by matching an identifier and a password to those stored values (Evans; col. 15, lines 15-35, col. 14, lines 42-50).

(F) As per claim 12, Evans teaches accessing patient data via an intranet (Evans, Figure 24).

(G) System claims 18-23, 25, and 29 differ from claims 1-6, 8, and 12, respectively, in that claims 1-6, 8, and 12 contain a method recited as a series of function steps whereas claims 18-23, 25, and 29 contain features recited in a "means plus function" format. As the method of step claims 1-6, 8, and 12 has been shown to be disclosed or obvious by the teachings of Evans, it is readily apparent that the "means" to accomplish the method is obvious in view of the prior art. As such, the limitations recited in claims 18-23, 25, and 29 are rejected for the same reasons given for method claims 1-6, 8, and 12, respectively, and incorporated herein.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 7 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (5,924,074) and Official Notice.

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(A) As per claim 7, Evans teaches the requestor is a provider (Evans; col. 2, lines 45-50) however, Evans does not expressly disclose the recipient of the data is a patient. However, the Examiner takes Official Notice that it is common practice for a health care provider to produce documentation for patients. Especially in the case, such as with Evans, where x-rays, prescriptions, appointments, referrals, test results and billing information is stored. For example, the health care provider will provide the patient with a receipt at the end of an examination, a print out of a referred physician's contact information, or a copy of test results or x-rays. It would be obvious to one of ordinary skill in the art at the time of the invention to add the recipient as the patient with the motivation of retrieving the patient record to access the patient data for use in the care of the patient (Evans; col. 3, lines 22-23).

(B) System claim 24 differs from claim 7, in that claim 7 contains a method recited as a series of function steps whereas claim 24 contains features recited in a "means plus function" format. As the method of step claim 7 has been shown to be disclosed or obvious by the combined teachings of Evans and Official Notice, it is readily apparent that the "means" to accomplish the method is obvious in view of the prior art. As such, the limitations recited in claim 24 are rejected for the same reasons given for method claim 7 and incorporated herein.

7. Claims 9-11 and 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans as applied to claims 1 and 18 above, and further in view of Quattrocchi (5,978,466).

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(A) As per claims 9-10, Evans teaches the requestor supplies elements of data in response to queries that are matched against database entries to grant or deny access (Evan; col. 15, lines 15-35). However, Evans does not expressly state that the requestor is a patient. Quattrocchi teaches the requestor is a patient who supplies identifying information in response to queries (Quattrocchi; col. 9, lines 35-65) and an identification code that is matched against data base entries to grant or deny access (Quattrocchi; col. 12, lines 5-36, and col. 12, line 50 to col. 13, line 20). It would have been obvious to one of ordinary skill in the art at the time of the invention to add the patient as requestor and supplying identifying information as in Quattrocchi to the patient collecting and presenting method of Evans with the motivation of maintaining patient confidentiality/anonymity (Quattrocchi; col. 2, lines 39-40).

(B) As per claim 11, Evans teaches a system that limits access via passwords and identification codes (Evans; col. 2, lines 45-50 and col. 15, lines 15-30). However, Evans does not teach the prompting of additional data until a match is established. Quattrocchi teaches the prompting the patient for additional information until a match is established (Quattrocchi; col. 13, lines 4-20). It would have been obvious to one of ordinary skill in the art at the time of the invention to expand the collection and presenting patient data method of Evans to include prompting the patient for additional information until a match is established of Quattrocchi with the motivation suggested by Quattrocchi of allowing the patient to obtain test results (Quattrocchi; col. 13, lines 51-53).

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(C) System claims 26-28 differ from claims 9-11, respectively in that claims 9-11 contain a method recited as a series of function steps whereas claims 26-28 contain features recited in a "means plus function" format. As the method of step claims 9-11 has been shown to be disclosed or obvious by the combined teachings of Evans and Quattrocchi, it is readily apparent that the "means" to accomplish the method is obvious in view of the prior art. As such, the limitations recited in claims 26-28 are rejected for the same reasons given for method claims 9-11, respectively, and incorporated herein.

8. Claims 13 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans as applied to claims 1 and 18 above, and further in view of Ralston et al. (6,389,454 B1).

(A) As per claim 13, Evans teaches the data in the database includes schedules of appointments (Evans; col. 5, line 55 to col. 6, line 10) and patients requiring procedures (Evans; Figure 18-19, col. 11, lines 10-17). However, Evans does not expressly teach the scheduling of procedures. Ralston teaches

a) an availability mask (i.e., schedule code) of time set aside for procedures and procedures that have their own availability mask (Ralston; col. 5, lines 50-60); and

b) patients requiring to schedule procedures, each procedure has a set of service constraints including a duration and availability mask (i.e., scheduling code) (Ralston; col. 2, lines 55-64, and col. 5, lines 50-60); and

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c) the procedure is scheduled by a client (i.e., patient) by selecting a block of time corresponding to the scheduling code of the patient's procedure (Ralston; col. 5, lines 50-66).

It would have been obvious to one of ordinary skill in the art at the time of the invention to add the schedule coded procedure scheduling method of Ralston to the collecting and presenting patient database of Evans with the motivation of providing a computer-implemented system for scheduling appointments at a plurality of facilities, each facility including a plurality of areas equipped to provide services (Ralston; col. 2, lines 50-52).

(B) System claim 30 differs from claim 13, in that claim 13 contains a method recited as a series of function steps whereas claim 30 contains features recited in a "means plus function" format. As the method of step claim 13 has been shown to be disclosed or obvious by the combined teachings of Evans and Ralston, it is readily apparent that the "means" to accomplish the method is obvious in view of the prior art. As such, the limitations recited in claim 30 are rejected for the same reasons given for method claim 13 and incorporated herein.

9. Claims 14-15, and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans as applied to claims 1 and 18 above, and further in view of Cummings, Jr. (5,301,105).

(A) As per claims 14-15, Evans teaches the database containing billing and payment records (Evans; col. 1, lines 28-30). However, Evans does not expressly state the a health provider receiving a payment on behalf of a patient, posting payment information into patient accounts, tracking and billing co-payments and deductibles for a patient and including an explanation of

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co-payments and deductibles for a patient. Cummings teaches the receiving a payment on behalf of a patient, posting payment information into patient accounts, tracking and billing co-payments and deductibles for a patient and providing an statement explanation of the co-payments and deductibles to patients (Cummings; col. 12, lines 22-32 and col. 18, lines 32-35). It would have been obvious to one of ordinary skill in the art at the time of the invention to add the accounting features of Cummings to the patient database of Evans with the motivation of providing patients with complete and comprehensive health care and payment thereof (Cummings; col. 1, lines 59-60).

(B) System claims 31-32 differ from claims 14-15, respectively, in that claims 14-15 contain a method recited as a series of function steps whereas claims 31-32 contain features recited in a “means plus function” format. As the method of step claims 14-15 has been shown to be disclosed or obvious by the combined teachings of Evans and Cummings, it is readily apparent that the “means” to accomplish the method is obvious in view of the prior art. As such, the limitations recited in claims 31-32 are rejected for the same reasons given for method claims 14-15, respectively, and incorporated herein.

10. Claims 16-17 and 33-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans and Cummings as applied to claims 1, 14, 18, and 31-32 above, and further in view of Sackler et al. (5,235,507).

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(A) As per claims 16-17, the combined teachings of Evans and Cummings teach tracking co-payments and deductibles and reporting the co-payment and deductibles to patients (Cummings; col. 12, lines 22-32 and col. 18, lines 32-35). However, the combined teachings of Evans and Cummings do not expressly teach the grouping and aggregating of deductibles and co-payments by patient family. Sackler teaches the grouping and aggregating of deductibles and co-payments by patient family (Sackler; col. 2, lines 10-57 and col. 3, line 20-27). It would be obvious to extend the combined patient database with tracking and reporting of co-payments and deductibles of Evans and Cummings to include the aggregated tracking by family of Sackler with the motivation of handling health insurance claims more efficiently and quickly (Sackler; col. 1, lines 43-44).

(B) System claims 33-34 differ from claims 16-17, respectively, in that claims 16-17 contain a method recited as a series of function steps whereas claims 33-34 contain features recited in a "means plus function" format. As the method of step claims 16-17 has been shown to be disclosed or obvious by the combined teachings of Evans and Cummings, it is readily apparent that the "means" to accomplish the method is obvious in view of the prior art. As such, the limitations recited in claims 33-34 are rejected for the same reasons given for method claims 16-17, respectively, and incorporated herein.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. a system for managing patient records including making appointments, collecting and

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presenting prescription, diagnosis, procedure and billing information in templates or forms (5,772,585), a method and apparatus for collecting and presenting patient vitals, procedural and evaluative information from authorized users via a wireless or wired network using a pen computer including voice inputs (5,867,821), a system for scheduling appointments for medical professionals including blocks of time and reminders (6,345,260 B1), and a system for securing files including multiple layers of passwords or user specific information (6,148,342).

12. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Or faxed to:

(703) 305-7687 [Official communications]
(703) 746-7238 [After Final communications, labeled "Box AF"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 7th floor receptionist.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet D. Chance whose telephone number is (703) 305-5356. The examiner can normally be reached on M-F 7:30am-4:00pm.

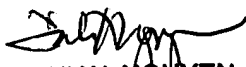
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-7687 for regular communications and (703) 746-7238 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

JDC

December 16, 2002


DINH X. NGUYEN
PRIMARY EXAMINER